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OFFICE OF PETITIONS

In re Application of	:
Janet L. Pan	:
Application No. 10/654,790	:
Filed: September 4, 2003	:
Attorney Docket No. Y0165-002	:
Title: USE OF DEEP-LEVEL	:
TRANSITIONS IN SEMICONDUCTOR	:
DEVICES	:

This is a decision on the renewed petition pursuant to 37 C.F.R. §1.53(e), filed June 14, 2004, requesting the application be accorded a filing date of September 4, 2003 with Figure 16 considered part of the original disclosure.

The application was deposited on September 4, 2003. However, on November 25, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted" (Notice), stating that the application appeared to have been deposited without Figure 16. The notice further indicated that an executed oath or declaration and the surcharge associated with the late filing of an oath or declaration were required.

The original petition was submitted on January 26, 2004 along with an executed declaration, and was dismissed via the mailing of a decision on April 14, 2004, for failure to establish that the figure in question was received. The copy of the postcard submitted with the original petition did not contain a date stamp, and therefore could not serve as prima facie evidence of receipt in the USPTO of all the items listed thereon.

With the renewed petition, Petitioner has included a postcard which lists "Drawings 16 sheets/figs. 1 to 16" and contains a date stamp.

Upon review of the electronic record, the above-mentioned figure has not been located among the application papers. The electronic record contains 15 sheets of drawings containing Figures 1-15. It is noted that Figure 14 is labeled "Figure 24." However, the evidence is convincing that the application papers deposited on September 4, 2003 consisted of 16 sheets of drawings containing Figures 1-16, and the sheet containing Figure 16 was subsequently misplaced in the Office.

Therefore, the application, including Figures 1-16, was complete on filing and entitled to a filing date of September 4, 2003 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The portion of the notice mailed November 25, 2003 which referred to the missing figure was sent in error, and is hereby **VACATED**. Therefore, no petition fee is required. The \$130.00 petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 4, 2003, using the original application papers filed on that date, as well as Figure 16 submitted on January 26, 2004, and for noting in Office records that this sheet was present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.



Paul Shanoski
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